

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

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In Re:

Ramon A. Suarez
Norma I. Suarez

Debtor(s)

Case No.: 16-26032 / CMG

Hearing Date: July 19, 2017

Chapter: 13

Judge: Christine M. Gravelle

**MEMORANDUM OF LAW IN SUPPORT OF THE MOTION FOR ENTRY OF ORDER
DECLARING THE AUTOMATIC STAY TERMINATED**

TO THE HONORABLE COURT:

COMES NOW secured creditor Scotiabank Puerto Rico (“Scotiabank”), through its undersigned counsels, and respectfully states and prays as follows:

1. Section 362(a) of the Bankruptcy Code provides that the filing of a bankruptcy petition operates as a stay of “the commencement ... of a judicial ... action ... against the **debtor** ... to recover a claim against the **debtor** that arose before the commencement of the [bankruptcy] case”, “the enforcement, against the debtor or **against property of the estate**, of a judgment obtained before the commencement of the [bankruptcy] case” and “any act to obtain possession of **property of the estate** or of property from the estate or to exercise control over property of the estate”. 11 U.S.C. § 362(a)(1), (2), (3) (emphasis added).

2. “[T]he [automatic] stay of an act against property of the estate under [11 U.S.C. § 362(a)] continues until **such property is no longer property of the estate.**” 11 U.S.C. § 362(c)(1) (emphasis added). In other words, the automatic stay only applies towards property of the bankruptcy estate and/or debts of the Debtors.

3. Section 362(j) of the Bankruptcy Code states that “[o]n request of a party in interest, the

court shall issue an order under subsection (c) confirming that the automatic stay has been terminated”. 11
U.S.C. § 362(j) (underline added).

4. In the instant case, the real estate property encumbered by Scotiabank has been surrendered by the Debtor. The confirmed plan states that “[u]pon confirmation, the stay is terminated as to surrendered collateral.” *Chapter 13 Plan*, Docket No. 9, p. 3.

5. Notwithstanding, in an abundance of caution, prior to commencing or continuing foreclosure proceedings, Scotiabank requests the Court to enter an order under Sections 362(c)(1) and 362(j) of the Bankruptcy Code declaring the automatic stay terminated in the instant case in regards to the property encumbered by Scotiabank.

Therefore, in compliance with D.N.J. LBR 9013-1, Scotiabank hereby submits the foregoing memorandum of law in support of the *Motion for Entry of Order Declaring the Automatic Stay Terminated*.

Dated: June 6, 2017
Westfield, NJ

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